

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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SLEEPY'S, LLC,

Plaintiff,

- against -

SELECT COMFORT WHOLESALE CORPORATION,  
SELECT COMFORT RETAIL CORPORATION and  
SELECT COMFORT CORPORATION,  
Defendants.

07 CV 4018 (TCP)(ARL)

REPLY AFFIDAVIT OF  
L. DONALD PRUTZMAN

STATE OF NEW YORK     )  
                                  )ss.:  
COUNTY OF NEW YORK    )

L. DONALD PRUTZMAN, being duly sworn, deposes and says:

1. I am a member of the bar of this Court and of Tannenbaum Helpert Syracuse & Hirschtritt LLP, attorneys for Plaintiff, Sleepy's, LLC ("Sleepy's" or "Plaintiff"). I submit this reply affidavit in further support of its motion for leave to file a First Amended Complaint and to place certain documents before the Court. I am fully familiar with the facts and circumstances stated herein.

2. Attached as Exhibit 1 is a true and correct copy of Judge Lindsay's Memorandum and Order, dated February 8, 2008.

3. Attached as Exhibit 2 is a true and correct copy of Judge Lindsay's ruling, dated October 22, 2008.

[846533-1]

4. Attached as Exhibit 3 is a true and correct copy of a produced by Select Comfort entitled

**REDACTION**

/ and labeled Bates

SLCO0002764 through SLCO0002833. This document states that

**REDACTION**

See SLCO0002803. This document was designated as "Confidential" by Select Comfort, and is subject to the Confidentiality Stipulation and Protective Order in this case.

5. Attached as Exhibit 4 is a true and correct copy of a produced by Select Comfort entitled

labeled Bates SLCO0002652 through SLCO0002667. This document states that

**REDACTION**

**REDACTION**

(SLCO0002657) and that

**REDACTION**

and that

See SLCO0002660. This document was designated as "Confidential" by Select Comfort, and is subject to the Confidentiality Stipulation and Protective Order in this case.

6. Attached as Exhibit 5 is a true and correct copy of a produced by Select Comfort entitled and labeled Bates

SLCO00109037 through SCLO0010939. This document

**REDACTION**

**REDACTED**

See SLCO0010938.

/s/ L. Donald Prutzman

L. Donald Prutzman

Sworn to before me this  
2nd day of December, 2008

/s/ George Foulke du Pont  
Notary Public